

INDEX

	Page
Orders and Judgments Below.....	1
Jurisdiction	2
Question Presented	2
Statute Involved	2, 6
Statement	2
Specification of Errors to Be Urged.....	4
Reasons for Granting the Writ	4
Appendix	6

STATUTE:

Sec. 72 of Title 18, U. S. C.	2, 6
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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1946

NO.

A. L. ANDREWS,
Petitioner

v.

UNITED STATES OF AMERICA

**Petition for a Writ of Certiorari to the United States
Circuit Court of Appeals for the Fifth Circuit**

A. L. Andrews prays that a writ of certiorari be issued to review the judgment of the Circuit Court of Appeals for the Fifth Circuit, entered in the above entitled cause October 23, 1946 (order denying motion for rehearing entered December 16, 1946) affirming the orders and judgments of the District Court of the United States for the Northern District of Georgia which overruled petitioner's motion for a directed verdict.

ORDERS AND JUDGMENTS BELOW

The order and judgment of the court overruling petitioner's motion for a directed verdict appears in the record

at p.p. 46, 52. The opinion of the Circuit Court of Appeals appears in the record at p. 76.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered October 23, 1946 (R. 77) and the order denying a rehearing was entered December 16, 1946 (R. 81). The jurisdiction of this court is invoked under Sec. 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

(1) Whether the evidence adduced upon the trial of the case was sufficient to constitute an offense under Sec. 72 of Title 18 U. S. C. (See Appendix p. 6.)

(2) Whether the documents alleged to have been forged were such documents as would constitute an offense under Sec. 72 of Title 18 U. S. C.

(3) Whether the possession and passing of counterfeit rationing certificates was a crime punishable under Sec. 72 of Title 18 U. S. C. or was such an offense as was punishable only under the provisions of the Second War Powers Act (Sec. 633 of Title 50 U. S. C.).

STATUTES INVOLVED

The statutes involved are Sec. 72 of Title 18 U. S. C. and Sec. 633 of Title 50 U. S. C.

STATEMENT

Petitioner was indicted at the November A. D. Term

1945 by a Grand Jury in and for the Newnan Division of the Northern District of Georgia (R. 2). The indictment contained five counts, and charged petitioner (in four counts) with possessing and passing counterfeit and forged rationing certificates. Petitioner went to trial on the 2nd day of April, 1946 and on April 3, 1946 the jury returned a verdict of guilty on counts 1 and 2 of said indictment (R. 12). On April 10, 1946 the court sentenced petitioner to serve a period of eighteen months in the custody of the Attorney General (R. 65).

The pertinent facts, as disclosed by the evidence, are substantially as follows:

Petitioner resides at Hogansville, Georgia in the Newnan Division of the Northern District of Georgia, and at the time of the alleged crime he was the owner and operator of a small grocery store. He was convicted of possessing and passing three counterfeit and forged ration tire certificates, and of knowing that said certificates were counterfeit and forged. Those Government witnesses (who were employees of O. P. A.) testified that the printed portions of the certificates were genuine but that the typewritten portions were forged; that the certificates were not issued by the Ration Boards reflected on the faces of the certificates. Petitioner was not an authorized tire dealer and the clerk of the local Ration Board testified that the alleged forged certificates were not issued to petitioner by the local board. Two alleged accomplices testified that they obtained the alleged forged certificates from petitioner. Petitioner testified that he had never had possession or control of the certificates and denied any knowledge of them.

SPECIFICATION OF ERRORS TO BE URGED

The Circuit Court of Appeals erred:

(1) In holding that the District Court of the United States did not err in refusing to direct a verdict for petitioner on the ground that the evidence was insufficient to warrant his conviction for that the alleged forged documents did not constitute an offense under Sec. 72 of Title 18 U. S. C.

(2) In holding that the District Court did not err in refusing to direct a verdict for petitioner on the ground that the alleged forged documents were not such documents as would constitute an offense under Sec. 72 of Title 18 U. S. C.

(3) In not reversing the judgment of the District Court.

REASONS FOR GRANTING THE WRIT

The question in this case is whether petitioner was punishable under the provisions of Sec. 72 of Title 18 U. S. C. (See Appendix p. 6). It is the contention of petitioner that the only violation involved is one of acquiring illegal tire ration certificates in violation of the Second War Powers Act. The exact question involved has not been decided by this court and it is one of gravity and importance to the public generally. It appears that the Second War Powers Act was a very comprehensive act and that it was intended to cover all violations concerning illegal ration coupons.

For the foregoing reasons it is respectfully submitted that the petition for writ of certiorari should be granted.

JAMES F. KEMP

JOHN M. JOHNSON

Attorneys for Petitioner

APPENDIX

Section 72 of Title 18 U. S. C.; Criminal Code Sec. 28 provides:

"Whoever shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly aid, or assist in the false making, altering, forging, or counterfeiting, any bond, bid, proposal, contract, guarantee, security, official bond, public record, affidavit, or other writing for the purpose of defrauding the United States; or shall utter or publish as true, or cause to be uttered or published as true, or have in his possession with the intent to utter or publish as true, any such false, forged, altered, or counterfeited bond, bid, proposal, contract, guarantee, security, official bond, public record, affidavit, or other writing, for the purpose of defrauding the United States, knowing the same to be false, forged, altered, or counterfeited; or shall transmit to, or present at, or cause or procure to be transmitted to, or presented at, the office of any officer of the United States, any such false, forged, altered, or counterfeited bond, bid, proposal, contract, guarantee, security, official bond, public record, affidavit, or other writing, knowing the same to be false, forged, altered, or counterfeited, for the purpose of defrauding the United States, shall be fined not more than \$1,000 or imprisoned not more than ten years, or both. (R. S. 5418, 5479; Mar. 4, 1909, c. 321, 28, 35 Stat. 1094.)"